IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3601 OF 2007

Novartis India Ltd. ..Petitioner

Vs.

The Union of India & Ors. ..Respondents

Mr.Prakash Shah i/b.PDS Legal for the Petitioner.
Mr.L.S.Shetty a/w. S.D.Bhosale and A.M.Sethna for the Respondents.

CORAM :- DR.S.RADHAKRISHNAN &
V.C.DAGA, JJ.

DATE : 14TH JUNE, 2007

P.C.

1. Heard the learned Counsel for the parties. By the above Petition, the Petitioner is challenging the order dated 27th September,2006 passed by the Additional Director General of Foreign Trade in the Appeal, directing the Petitioner to make a pre-deposit 25% of the penalty amount of Rs.8,65,00,000/-, in the pending Appeal.

2. The Petitioner had failed to make the said pre-deposit of 25% of the penalty amount of Rs.8,65,00,000/-, during the pendancy of the Appeal. In view thereof, the Additional Director General of Foreign Trade, by an order dated 30th November,2006 had dismissed the said Appeal on the ground of non deposit of the aforesaid pre-deposit amount.

3. The learned Counsel for the Petitioner sought to contend that both the aforesaid orders dated 27th September,2006 as well as the order dated 30th November,2006 were not served on the Petitioner. However, we are not inclined to accept this contention, since the admitted letter head of the Petitioner, which is at Exhibit-B clearly discloses the address of the Petitioner as - Building No.10, Ground Floor, Off Areay Road, Goregaon (E), Mumbai - 400 060. Over and above, we do not find anything erroneous or illegal in the order dated 27th September,2006 directing the Petitioner to make a pre-deposit of 25% of Rs.8,65,00,000/-. Under these circumstances, we find no substance in this Writ Petition, hence the same stands dismissed.

4. However, we make it clear that if the Petitioner makes pre-deposit of 25% out of penalty amount of Rs.8,65,00,000/-, within a period of four weeks from today, the said Appeal shall stand revived and the Additional Director General of Foreign Trade shall dispose of the same strictly on its own merits in accordance with law. If the above pre-deposit is not made within four weeks, the earlier order of dismissal of the Appeal will stand.

(V.C.DAGA,J.) **(DR.S.RADHAKRISHNAN,J.)**